

DRAFT

STATUTORY PROPOSAL

FROM WETLAND STUDY COUNCIL

FOR WETLAND MITIGATION IN LIEU FEE SUBPROGRAM

PROPOSAL

Change the requirement on all In Lieu Fee Subprogram (ILF) project sites for public access for hunting, fishing, trapping, cross country skiing or hiking, so that public access is optional on these project sites. Change “shall” to “may” for the ILF public access requirement.

STATUTORY LANGUAGE CHANGE

Change Sec. 281.36(3r)(e), Stats., to read: “... Under the in lieu fee subprogram, the wetlands that benefit from the subprogram ~~shall~~ may be open to the public for hunting, fishing, trapping, cross country skiing, or hiking, or any combination thereof, ~~but~~. The department may establish reasonable restrictions on the use of the land by the public in order to protect a unique plant or animal community. ...”.

JUSTIFICATION

1. The primary purpose of the ILF subprogram is to mitigate for the loss of wetlands and wetland functions resulting from permits allowing development activities in wetlands. Optional public access would make the ILF subprogram more attractive to private landowners and be helpful in meeting the primary goals of the subprogram. Making public access optional may increase the potential for functionally or ecologically high value wetland mitigation projects on private lands.
2. Public access is not required for the wetland mitigation bank subprogram in Wisconsin. No other states require public access for the wetland mitigation programs they administer. There are no federal regulations that require public access of wetland mitigation sites.
3. The majority of wetland acreage lost that is being mitigated for did not or does not have public access.
4. Landowners participating in the ILF subprogram are not compensated for the loss of ability to control public access. ILF funds are received from wetland permittees, thus no State dollars are involved.